

**THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "D" BENCH**

**Before Ms. Suchitra Kamble, Judicial Member
And Shri Narendra Prasad Sinha, Accountant Member**

**ITA No. 1531/Ahd/2024
Assessment Year 2022-23**

Jerambhai Ratnabhai Patel, Omkar Bungalows, Opp. Ramkrishna Apartment, Maninagar Cross Road, Maninagar, Ahmedabad-380008 PAN: ABFPP9023L	Vs	Central Processing Unit, Bangaluru (Present Jurisdiction) Income Tax Officer, Ward-5(1)(2), Room No. 419, Floor- 4, Ward 5(3)(1), Aayakar Bhawan, (Vejalpur), Near Saching Tower, 100 Feet Road, Anandnagar, Prahladnagar, Ahmedabad- 380015
(Appellant)		(Respondent)

Assessee by: Shri Vijay H Patel, A.R.
Revenue by: Shri Rameshwar P Meena, Sr. DR

Date of hearing : 06-01-2026
Date of pronouncement : 09-01-2026

आदेश/ORDER

Per Suchitra Kamble, Judicial Member:

This is an appeal filed against the order dated 29-06-2024 passed by Commissioner of Income Tax (Appeals), (Addl./JCIT)-1, Ludhiana for assessment year 2022-23 by the Assessee.

2. The grounds of appeal are as under:-

“1. Whether the Ld. CIT(A) was right in upholding the order dated 02.01.2023 passed u/s 143(1) of the Income Tax Act, 1961?”

2. Whether the Ld. CIT(A) is right in law and on facts in disallowing the credit of Tax Deducted at Source to the tune of Rs. 9,82,156/- lying to the credit of the Appellant?”

3. Whether the Ld. CIT(A) was right in law and on facts in denying the refund of TDS along with interest accrued thereon to the Appellant.

3. The Assessee along with his wife Smt. Vimlaben Jerambhai Patel and his son Shri. Darshanbhai Jerambhai Patel sold immovable property situated at Omkar Complex, Bhavanagar, Gujarat. The said immovable property is 4 stories building which consists of two residential units and 4 commercial units. Particular of Unit Type of property Legal ownership as per registered sale deed was that :

- I. Unit No. 401 and 402 at 4th Floor residential Smt. Vimlaben Jerambhai Patel and Shri. Darshanbhai Jerambhai Patel with equal share, Smt. Vimlaben Jerambhai Patel Unit No. 301 at 3rd Floor Commercial.
- II. Smt. Vimlaben Jerambhai Patel Unit No. 201 at 2nd Floor Commercial, Smt. Vimlaben Jerambhai Patel Unit No. 101 at 1st Floor commercial, (III) Assessee's Unit at Ground Floor commercial with equal share that of Smt. Vimlaben Jerambhai Patel and Darshanbhai Jerambhai Patel.

3.1. After taking into account of the family arrangement with Assessee's wife and his son, the Assessee filed Return of Income u/s 139(1) as revised income dated on 23.07.2022 declaring total income at Rs. 5,40,311/- incorporating capital gain arising from sale of Unit at Ground Floor and Unit No. 101 at First Floor and claiming the refund amount of Rs. 11,544. The same was processed u/s 143(1) of the Act, determining total income at Rs. 5,40,311/- and refund due of Rs. 11,960/-.

3.2. Purchaser of the building has deducted Tax at Source in the hands of Smt. Vimlaben Jerambhai Patel and Shri. Darshanbhai Jerambhai Patel being legal owners of the building and party to the agreement for sale. In order to claim TDS Credit in the hands of the assessee, as assessee has shown capital gain arising from sale of units of his ownership, he filed revised Return of Income on 07.12.2022 declaring total income of Rs. 5,40,311/- and claiming the refund amount of Rs. 9,93,710/- after considering TDS Credit of Rs. 9,82,156 pertaining to Unit at Ground Floor and Unit No. 101 at First Floor, in View of Section 199 of the Act read with Rule 37BA of the Act. The same was processed u/s 143(1) of the Act, determining total income at Rs. 5,40,311/- and refund due of Rs. 11,960/-. The Assessee once again filed revised Return of Income on 30.12.2022 without modifying total income and claiming refund amount of Rs. 9,93,710/-.

3.3. The CPC, while processing the return, disallowed the TDS Credit of Rs.9,82,156/- pertaining to unit at Ground Floor and Unit No. 101 at First Floor in the hands of the Assessee.

4. Being Aggrieved by the Intimation Order dated 02.01.2023 u/s 143(1), the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. A.R. submitted that since the assessee has entered into an agreement which is a family arrangement with his wife and his son for construction of floors on the underlying plot of the specified property on 12th September, 2014, It was specifically mentioned that the assessee has exclusive right, title and interest in the Ground and First Floor of the building. The Ld. A.R. Submitted that the assessee has therefore, filed the revised Return thereby showing capital gain arising from sale of Units of his ownership to Ground Floor and Unit No. 101 at First Floor and considered TDS Credit of Rs. 9,82,156 and thus claimed refund. But, the CPC as well as CIT(A) has totally ignored the same and disallowed the TDS Credit.

6. The Ld. D.R. submitted that the assessee was not a party to the agreement for sale as the owner of the land and the property situated was owned by assessee's wife and son. Therefore, the CIT(A) as well as the Assessing Officer has rightly disallowed the TDS Credit.

7. We have heard both the parties and perused all the relevant material available on the record. It is pertinent to note that the family arrangement dated 12th September 2014 was not registered. In fact, the same has categorically mentioned that the assessee will not have right, title or interest in the land except as permitted by the Assessee wife and his son. The agreement for sale was in the name of the assessee's wife and assessee's son and there was no authority given to the assessee being a confirming party in the sale agreement for sale of property. Thus, as per the facts on record, the Assessee's claim that of TDS deduction should be credited in the Assessee's account, will not come into the picture as the family arrangement has not reflected in the final agreement for sale, while the signatory parties are only assessee's wife and assessee's son. The purchaser of the building have deducted TDS in the hands of Smt. Vimlaben Jerambhai Patel and Shri. Darshanbhai Jerambhai Patel. Therefore, we direct the Revenue that the credit for TDS should be given to the respective parties i.e., wife and son of assessee after verifying the TDS Credit. For this purpose they may revise their return after obtaining due approval of the competent authority u/s 119(2)(b) of the Act. The Assessee will not be entitled for the TDS Credit or the refund more than Rs. 11,960/- for the reason as discussed earlier. Thus, the Assessing Officer in the case of Assessee's wife and Assessee's son should consider the claim of TDS Credit in their hands and grant the same after

necessary verification. The appeal of the assessee is dismissed with the direction hereinabove.

8. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 09-01-2026

Sd/-
(Narendra Prasad Sinha)
Accountant Member
Ahmedabad : Dated 09/01/2026

N.k

Sd/-
(Suchitra Kamble)
Judicial Member

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद